

PR

CH



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,595	01/23/2002	Jim Sowerwine	1370.01	6408

21901 7590 03/20/2003

SMITH & HOPEN PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER, FL 33760

EXAMINER

HUNTER, ALVIN A

ART UNIT PAPER NUMBER

3711

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

Office Action Summary

Application No.

09/683,595

Applicant(s)

SOWERWINE, JIM

Examiner

Alvin A. Hunter

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 5.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marier, Jr. (USPN 5375833) in view of Nunziato (USPN 3262705).

Marier, Jr. discloses a golf practice device for assisting in developing a proper swing (See Summary of the invention). The device comprises an elevated path guidance means (12), vertical column (18), support (14), base (16), and support arm (20) (See Entire Document). The elevated path guide means are two cylindrical rods in which separate from the device upon impact of a club and it is noted that the elevated path guide means may also be one continuous rod (See Column 2, lines 23 through 59). The elevated guide means, in which provides a reference in which the swing should correctly arc, is connected to the vertical column by means of the support arm, in which forms an L-joint, or right angle relationship to the vertical column at one end, and has a T-joint at the other end (See Summary of the Invention and Column 2, lines 23 through 37). It is noted that various fasteners and clamps may be used on the support arm for holding the rods (See Column 2, lines 56 though 59). Though Marier, Jr. prefers the elevated path guide means to extend in two directions, it is capable of achieving the same result with one rod extending in one direction. It is also clearly apparent that the

Art Unit: 3711

rods can be reversibly engaged. Marier, Jr. does not disclose having an elevated path means pointing to the golf target or a cradle interface holding an elevated path guide means on to the support arm. Nunziato discloses a horizontally adjustable pointer in which has a C-shaped clamp, equivalent to the applicant's cradle interface, for holding the device onto a golf club (See Column 2, lines 12 through 18). Furthermore, Nunziato discloses a pointer in which points and aligns with the golf target for accurately aligning the golf putter and golf ball (See Entire Document). One having ordinary skill in the art would have found it obvious to have the elevated path guide means in alignment with the golf target, as suggested by Nunziato, in order to align the golf putter and golf ball with the golf target for accurate putting. One would have also found it obvious to use a C-shaped clamp in place of the T-joint for attaching the elevated path guide means to the support arm, as suggested by Nunziato, as an equivalent attachment means.

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art, as applied to claim 1 above, in view of Macri (USPN 3554555) and admitted prior art.

The prior art, as applied to claim 1 above, does not disclose an elevated path guide means made of polyethylene or an elevated guide means engaged to a cradle interface by a magnet. Macri discloses a golf training device in which aids a golfer in perfecting his/her swing (See Background of Invention). The device comprises a trapezoidal arm (14) connected to a spring clip by a magnet (See Entire Document). The magnet cooperates in releasing the trapezoidal arm upon impact from a club (See Column 3, lines 16 through 24). It is noted in Column 3, lines 1 through 15, that the

Art Unit: 3711

shape of the arms may vary. Macri also discloses that a resilient impact absorbing foam be used to construct the arms to absorb the impact of the club (See Column 2, lines 3 and 4 and lines 61 through 75).

It is admitted prior art that it is known with the art to utilize low-density polyethylene due to its toughness and flexibility. Therefore, one would have found it obvious to employ low-density polyethylene foam in making the elevated path guide means, as taught by the admitted prior art, for the purpose of toughness and flexibility.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above in view of McCormick (USPN 5676604).

The prior art as applied to claim 1 above does not disclose using hook and loop fasteners for securing the elevated path guide means to the cradle interface.

McCormick discloses a golf training device in which two saddles (36) with VELCRO on one side are attached to a swing arm (28) that is attached to club head guide (22) (See Column 2). The VELCRO serves to hold the club head guide (22) in place until dislodged due to contact of a golf club (See Summary of the Invention). One having ordinary skill in the art would have found it obvious to use hook and loop fasteners, as taught by McCormick, in order to releasably dislodge the elevated guide means upon impact.

2. Claims 7, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 6 above in view of admitted prior art

It is admitted prior art that a V-shaped base configuration is common within art for supporting structures. Therefore, it would have been obvious to one having ordinary

Art Unit: 3711

skill in the art at the time the invention was made to have a V-shaped base configuration having a juncture being that it is common within the art for supporting structures. It also admitted prior art that is common within the art to place weight on the end of elements to stabilize and further support structures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place weights on the distal ends of the base in order to stabilize the device while in use and to further support the device.

3. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over The prior art as applied to claim 1 above in view of admitted prior art and further in view of Lambert (USPN 3886700).

The prior art as applied to claim 1 in view of the admitted prior art does not disclose having an assembly guide cord to assisting in assembling and disassembling the device. Lambert discloses a collapsible structure comprising a plurality of elongated element attached together by a flexible strand in order to facilitate easy assembly and collapsibility (See Entire Document). One having ordinary skill in the art would have found it obvious to have a guide cord connecting a plurality of member, as taught by Lambert, in order to allow easy assembly and collapsibility. The applicant does not disclose why it is critical for the assembly guide cord to be elastic, therefore, would have been an obvious design choice. One having ordinary skill in the art would have found the assembly cord of Lambert to perform equally as well being that the both perform the same function, which is connecting a plurality of members in order to allow easy assembly and collapsibility.

Response to Arguments

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Due to failure to challenge the OFFICIAL NOTICE taken in the previous office action. The OFFICIAL NOTICE has been submitted as being admitted prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Paul T. Sewell
Supervisory Patent Examiner
Group 3700